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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,750	10/11/2001	Michael Ferguson	8576-001-27	7168

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EXAMINER	
NGUYEN, THUKHANH T	
ART UNIT	**PAPER NUMBER**
1722	

DATE MAILED: 11/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

C

Office Action Summary	Application No.	Applicant(s)	
	09/973,750	FERGUSON, MICHAEL	
	Examiner	Art Unit	
	Thu Khanh T. Nguyen	1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) *1-9* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 10-17 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Mickus et al (4,743,289) in view of Lynam et al (5,557,873).

Mickus et al disclose an apparatus for forming ammonium sulfate fertilizer comprising, a raw material ventilation system (16) having a scrubber (17) for venting flowing air and ammonia from the material before transfer the material into a dryer (19), at which the material is dried and reduced to fine particles (col. 6, lines 1-2), and a pelleting system, or a screening operation (31-35) for screening and producing homogenized pellets (col. 10, lines 17-25 and lines 45-61), wherein the size of the pellets is depending on the changeable crushing weight.

However, Mickus et al fail to disclose that the ventilation system having a filter.

Lynam et al disclose an apparatus for producing a pelletized fertilizer, comprising a venting system including a filter for removing exhaust gas from the system, wherein filter and removal of exhaust gas system is located at the pre-heating station (col. 5, lines 64-66) or at the heating station (col. 7, lines 24-31), wherein the filter is used to remove undesirable by-products from the exhaust gas prior to discharging the gas to the atmosphere (col. 5, lines 59-63).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Mickus et al by providing a filter with the venting system as

taught by Lynam et al in order to remove undesirable by-product from the exhaust gas prior to discharging the exhaust gas to the atmosphere to prevent contamination to the surrounding area.

In regard to claims 11-12, Mickus et al disclose that the scrubber (17) is a wet scrubber (col. 5, lines 57-59), which is capable or producing moisture air.

In regard to claim 13, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify the feeding material, the pellet sizes and the operating conditions to produce pellets at different rates. Further, it would have been also obvious to one of ordinary skill in the art at the time the applicant's invention was made to provide additional pelletizing system if so desired. The court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

In regard to claims 14, Mickus et al further disclose a plurality of ventilation system for cooling and storing the pellets (22, 26, 28; col. 6, lines 1-13) before transferring the material to the next station, in order to obtain a product has good appearance and has exhibited excellent handling and storage properties (col. 10, lines 51-66). It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Mickus by relocating or providing additional ventilation system at different locations for cooling or venting gases at any desired location. The court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

In regard to claims 15, the dryer is capable of heating the material to different temperature depending on the material and the drying time.

In regard to claim 16, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Mickus by producing pellets having different size depending on the mesh, or the crushing screen is used.

In regard to claim 17, which regarding the actual material in the pellets, Lynam et al disclose that the same fertilizer system can be used for different type of material such as digested sludge, raw sludge, waste water sludge, waste activated sludge or a mixture thereof (col. 5, lines 12-17). Thus, the same system as taught by Mickus et al would be inherent or would have been obvious in view of Lynam et al for being used with organic matter and humus.

Response to Arguments

3. Applicant's arguments filed September 11, 2006 have been fully considered but they are not persuasive. The Applicants argued that Mickus fails to disclose or suggest a pelleting system for producing pellets from the powder. The examiner respectfully disagrees.

4. Mickus discloses an apparatus for converting crystalline (powder) to granular form (pellets) comprising a diverter device (38) for sorting the pellets, a usually small rounded, spherical, or cylindrical body (Merriam-Webster's Dictionary, 10th Edition), and for returning the fines, crushed oversized powder to the recycle lines. Furthermore, the current invention discloses that the forming pellets are 1-6.5mm long (Specification, page 4, line 13), while Mickus discloses that the granules having the size of 5-mesh and 9-mesh (Tyler screen size), which are equivalent to 2 mm – 4mm (see http://www.azom.com/details.asp?ArticleID=1417). Thus, Mickus does disclose a pelletizer that is capable of forming pellets equivalent to those of the current invention.

The Applicant further alleged that Mickus fails to disclose a ventilation system at the finishing area for cooling and storing the pellets. Because Mickus has disclosed a plurality of ventilation and recycling system along the processing line, it would have been obvious to one of ordinary skill in the art to relocate or to install additional venting system at any desired location along the processing line, including the finish area in order to exhaust the gases produced from the product for preventing explosion or for health reasons. The court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gupta Yogendra can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TN
10/30/06

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